

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2000-387

May 16, 2000

PUBLIC UTILITIES COMMISSION
Maine Telecommunications Education
Access Fund (Chapter 285)

ORDER OPENING
RULEMAKING

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order we propose a rule for implementing the Telecommunications Education Access Fund established in 35-A M.R.S.A. § 7104-B. The Proposed Rule describes a process for assessing contributions to the Fund, how the funds will be used, and how qualified schools and libraries will apply for discounts.

II. BACKGROUND

In May 1995, the Commission directed Bell Atlantic-Maine to use up to \$4 million per year for five years to “reduce rates and/or provide additional services or equipment to schools and libraries.” *Frederic Pease et. al v. New England Telephone and Telegraph Co. d/b/a NYNEX*, Docket No. 94-254 (May 15, 1995), Order at 58-59. In January 1996, the Commission approved a plan to provide access to information networks and services to public libraries and schools. *Id.* Order (Jan. 5, 1996). The program successfully connected virtually every qualified school and library to the internet by December 1997. In July 1999, the Commission extended the operation of the program through June 2001. *Public Utilities Commission, NYNEX School and Library Project*, Docket No. 96-900 (July 13, 1999).

In June 1999, the Governor signed into law legislation (effective September 18, 1999) directing the Commission to establish a Telecommunications Education Access Fund (Fund). All carriers offering telecommunications services in the State will contribute to the fund, in an amount not to exceed 0.5% of retail charges, as determined by the Commission. The Fund may be used to provide discounts for telecommunication services, internet access, internal connections, computers, and training. The assessment for the Fund can begin no earlier than July 1, 2001.

On February 9, 2000, we opened an inquiry to gather information from interested persons on how the Commission should implement the provisions of 35-A M.R.S.A. § 7104-B.¹ We received comments from representatives of the Department of Education/State Librarian, four libraries, four schools, three telecommunications

¹Upon the opening of this rulemaking, we now close Docket No. 2000-85.

carriers, a mobile telecommunications carrier, the Public Advocate, one individual, and the Maine Mathematics and Science Alliance. The comments were useful in developing the Proposed Rule and it contains many of the suggestions we received.

We also received input from the members of the School and Library Network Advisory Board. The Board suggested that the Commission use the following principles in designing any new program:

1. Build on the successes of the current MSLN;
2. Keep the design simple so administrative expenses for schools and libraries, the program administrator, and carriers are as low as possible;
3. Ensure each schools and library has a usable level of connectivity to the Internet for as many students/patrons as practicable;
4. Design State discounts to maximize potential contributions from the federal E-Rate and other sources such as vendors, foundations, etc.;
5. Focus training on using the connection (updating software, connections, etc.).
6. Design the program so it is easily adapted from year to year depending on identified needs, funding availability, and changing technology; and
7. Further the legislative goal of making affordable computer-based information services and information networks available to as many Maine citizens as possible.

We have used these principles in drafting the Proposed Rule.

III. DISCUSSION OF INDIVIDUAL SECTIONS

Below is a description of the individual sections of the Proposed Rule. We invite interested persons to comment on the Proposed Rule and suggest changes or additions.

A. Definitions

All definitions are derived from 35-A M.R.S.A. § 7104-B. As required by section 7104-B(1)(C), the definitions of telecommunications, telecommunications carriers and telecommunications services are derived from those in 47 U.S.C. § 153 (Supp. 1999).

B. Assessment

This section describes how contributing telecommunications carriers will assess customers. The Commission will establish an amount to be collected of up to .5% of retail charges, by May 1st of each year. The Commission will base its decision on the needs of schools and libraries as identified by the Advisory Board, the amount collected in previous years, and the impact on ratepayers. The amount will be charged as a percentage on each customer's bill. By way of example, in 1999, .5% of retail charges would equal approximately \$ 3.2 million.

The Commission will contract with an independent fiscal agent to serve as an administrator for the Fund. Any costs for this administrator will come from the Fund. It is not expected that telecommunications carriers will incur any significant administrative costs, and therefore the Proposed Rule does not address any such cost recovery. As required by 35-A M.R.S.A. § 7104-B(3)(D), the Proposed Rule requires the amount collected from customers to be identified on their bills.

C. Use of Funds

The statute describes the services and equipment for which schools and libraries may receive discounts and the guidelines the Commission is to apply in allocating funds for those services and equipment. 35-A M.R.S.A. § 7104-B(4),(5). The Proposed Rule provides in Section 3(B) that, at a minimum, the Commission will make available discounts for internet access in a manner that ensures that schools and libraries continue with at least the same access they have under the Maine School and Library Network, at the same cost. In other words, at a minimum, qualified schools and qualified libraries will be eligible for discounts that, when combined with their Federal E-Rate discount, will allow them to receive the same service they are receiving as of June 30, 2001. This includes both access and internet service. For other services, the Commission will likely establish maximum levels of state discounts available, although this process is not specifically addressed in the Proposed Rule. Interested persons are invited to comment on whether there should be greater detail concerning use of funds in the Rule.

D. Eligibility for State Discount

All qualified schools and qualified libraries may apply for discounts from the Fund by June 30th each year. If the service for which the discount is being sought is eligible for a Federal E-Rate discount, the school or library must demonstrate that it also applied for federal funds by submitting a copy of their federal Forms 470 and 471.

Qualified schools and qualified libraries that are not eligible under the federal program will not be required to submit the federal forms but will explain their ineligibility on their state application.

E. Advisory Board

The Commission relies on an advisory board for advice on how to operate the current Maine School and Library Network. That board consists of nine members: two Commission staff members and one representative of each of the Public Advocate, Bell Atlantic, Maine cable providers, Department of Education, Maine library community, internet service providers and the Telephone Association of Maine. Under the Proposed Rule, Advisory Board membership will be expanded to include a representative of the wireless industry. We seek comment on whether the Board should be further reconstituted to include a teacher, librarian, student, and/or library patron representatives or any other interested parties.

A primary role of the Board will be to recommend to the Commission each year what services should be funded and at what funding level. The meeting and voting procedures in the Proposed Rule are the same as those we established by order for the current Board. See Docket Nos. 94-254, 94-123, Order at 23-24 (Jan. 5, 1996).

IV. RULEMAKING PROCEDURES

This rulemaking will be conducted according to the procedures set forth in 5 M.R.S.A. §§ 8051-8058. A public hearing on this Proposed Rule will be held on June 15, 2000, in the Commission's Hearing Room, 242 State Street, Augusta, Maine, at 10:00 a.m.

Please notify the Public Utilities Commission if special accommodations are needed in order to make the hearing accessible by calling 1-287-1396 or TTY 1-800-437-1220. Requests for reasonable accommodations must be received 48 hours before the hearing.

Written comments on the proposed rule may be filed with the Administrative Director of the Public Utilities Commission, State House Station 18, Augusta, Maine 04333, no later than July 7, 2000. Please refer to the docket number of this proceeding, Docket No. 2000-387, when submitting comments.

In accordance with 5 M.R.S.A. § 8057-A(1), the fiscal impact of the Proposed Rule is expected to be minimal. It is not expected to impose an economic burden on small businesses. A more precise understanding of the fiscal impact of this rule should be possible once comments have been received. The Commission invites all interested parties to comment on the fiscal impact and all other implications of this proposed rule.

The following persons are being sent copies of this Order and the attached rule:

1. All telecommunication carriers, including all wireless carriers, operating in the State of Maine;

2. Organizations representing the interests of Maine's schools and libraries, as identified in the School and Library Network Advisory Board;
3. All persons who have filed with the Commission within the past year a written request for Notice of Rulemaking;
4. All persons filing comments in Docket No. 2000-85;
5. The Secretary of State for publication in accordance with 5 M.R.S.A. § 8053(5); and
6. Executive Director of the Legislative Council, State House Station 115, Augusta, Maine 04333-0115 (20 copies).

A copy of this Order and Proposed Rule will also be posted on the Commission's website's schools and libraries section, janus.state.me.us/puc/sandlbrd.htm. The Commission plans to conclude this rulemaking by September 1, 2000.

Accordingly, it is

ORDERED

1. That the Administrative Director send copies of this Order and the attached Proposed Rule to all the persons listed above and compile a service list of all such persons and any persons submitting written comments on the Proposed Rule.
2. That the Administrative Director send a copy of this Order to the Secretary of State for publication in accordance with 5 M.R.S.A. § 8053.

Dated at Augusta, Maine, this 16th day of May, 2000.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
Diamond